

REMARKS

Claims 1-9, 10-13, 18-19, 21, and 24-25 remain in the referenced application. Claims 10-13 have been allowed. Claims 14-17, and 20-32 have been canceled.

Claims 18, 19, 21, 24, and 25 stand rejected under the second paragraph of 35 U.S.C. §112, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner has cited that claim 18, line 3 is unclear as to what applicant intends to claim with respect to the phrase “chamber filler.” Applicant respectfully submits that the term “chamber filler” was a typographical error, and claim 18, step a., as amended, should recite, “placing a film generator assembly in a chamber filled with a pressurized gas, wherein the film generator assembly comprises a hemispherical redirector coupled with a cylindrical film generator including apertures.” Applicant further respectfully submits that the disclosure in Applicant’s “REMARKS” section of Amendment “A” properly recited the intended claim 18. Applicant has amended claim 18 to correct the typographical error, thereby eliminating the indefinite term “chamber filler” from the claims. Applicant has further amended claim 18 to incorporate the limitations of claim 21, as discussed in the following paragraphs. Accordingly, Applicant respectfully requests that the rejection for claim 18 under 35 U.S.C. §112, second paragraph, be withdrawn, as the indefinite term has been removed from the claim.

Applicant contends that the rejection of claim 19 under the second paragraph of 35 U.S.C. §112, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, is now moot in view of Applicant’s amendment to claim 18. Applicant’s claim 19 provides an additional step for the method of

claim 18. Applicant respectfully request that the rejection of claim 19 under the second paragraph of 35 U.S.C. §112, be withdrawn, and that claim 19 is patentable as submitted.

The Examiner has rejected claims 21, 24, and 25 under the second paragraph of 35 U.S.C. §112, because claims 21, 24, and 25 depend from a method claim, and do not recite manipulative steps. Applicant has cancelled claims 21, 24, and 25 as discussed in the following paragraphs, and therefore, the rejections of claims 21, 24, and 25, under 35 U.S.C. §112, second paragraph, are now moot.

Claim 1 stands rejected under 35 U.S.C. §102 (b) by Reynolds et al. (U.S. Patent No: 3,441,176, hereinafter referred to as “Reynolds”). The Examiner asserts that Reynolds discloses a carbonator including an oblong shaped housing(118), wherein the carbonation means thereof includes a carbon dioxide inlet (335) and a water inlet (325) and a carbonated water outlet (350). Applicant has previously established that the cited housing (118) is a jacket, and is not part of the carbonator (300). Applicant has further previously established that Reynolds discloses a carbonator 300 that includes a vessel 301 having a diameter and a length measurement (col. 12, lines 12-14). A diameter and a length measurement are clearly indicative of a “cylindrically shaped housing.”

Nevertheless, Applicant has amended claim 1 to further define Applicant’s invention. Applicant’s amended claim 1 now recites, “an oblong shaped carbonator housing defining an oblong shaped interior volume; a liquid inlet port disposed on the housing for inletting a liquid from a liquid source into the interior volume; a gas inlet port disposed on the housing for inletting gas from a gas source into the interior volume; and an exit port disposed on the housing.” Applicant, accordingly, respectfully submits claim 1, as amended, clearly is patentable over Reynolds, because Reynolds fails to disclose, “an oblong shaped carbonator

housing defining an oblong shaped interior volume.” Reynolds clearly discloses a cylindrically shaped carbonator housing as recited in column 9, lines 34-35, of Reynolds’s disclosure, “The carbonator 300 comprises a fluid-tight vessel 301 including a cylindrical side wall 302 that is closed at the upper end thereof by an outwardly dished top wall 303....” Reynolds’s fluid tight vessel 301 is clearly of a cylindrical construction, not an oblong construction. Reynolds accepts fluid within the cylindrically shaped fluid tight vessel 301. Applicant contends that Reynolds does not disclose “an oblong shaped carbonator housing defining an oblong shaped interior volume” for receiving fluid, and therefore, cannot anticipate Applicant’s amended claim 1, which recites, “an oblong shaped carbonator housing defining an oblong shaped interior volume.” Applicant, therefore, respectfully submits that claim 1, as amended, is patentable over Reynolds, as Reynolds fails to disclose an “oblong-shaped carbonator housing defining an oblong shaped interior volume.”

Claims 2-5, and 7-9 have been deemed to not carry any patentable weight within an apparatus claim by the Examiner. Applicant contends that claims 2-5, and 7-9 depend from claim 1. Applicant contends that claims 2-5, and 7-9 are nonobvious because they contain the limitations of the independent claim 1 plus a further limitation, and henceforth, are in conformance with claim structure rules. Applicant, therefore, contends that claims 2-5, and 7-9 are patentable with claim 1 over Reynolds, and respectfully requests the rejections of claim 2-5, and 7-9 be withdrawn.

Claims 6 and 7 have been rejected under 35 U.S.C. 102 (b) by Reynolds. In rejecting claim 6 and claim 7, the Examiner asserts that Reynolds discloses a carbonator housing including an oblong shell and two ends. Applicant has amended claim 6 to remove the recitation of “two ends.” Applicant’s amended claim 6 recites, “wherein the housing comprises an oblong shell.”

Applicant respectfully contends that Reynolds does not disclose an, “oblong shaped carbonator housing including an oblong shell.” As previously argued, Reynolds discloses a cylindrical carbonator housing. Applicant’s claim 6 depends from claim 1, and further defines the oblong housing of claim 1. Applicant contends that Applicant’s amended claims 6 and 7 are patentable with amended claim 1, as Reynolds fails to disclose, “an oblong shaped carbonator housing defining an oblong shaped interior volume.” Applicant contends that the patentability of claim 7 lies with amended claim 6, and respectfully requests that the rejections of claims 6 and 7 under 35 U.S.C. 102(b) be withdrawn.

Claims 18, 19, 21, 24, and 25 stand rejected under 35 U.S.C. 102(b) by Reynolds. The Examiner contends that Reynolds clearly discloses a hemispherical redirector (340) coupled at (342) to the cylindrical film generator (see col. 10, lines 32-44), wherein liquid is sprayed onto the inner surface of the redirector and splashed therefrom onto the cylindrical film generator.” Applicant, however, contends that Reynolds does not disclose, “redirecting the sprayed fluid towards the cylindrical film generator,” as disclosed in Applicant’s step c. of claim 18.

Applicant has amended claim 18, as previously discussed herein, to correct an indefiniteness rejection under 35 U.S.C. 112, second paragraph. Applicant has further amended claim 18 to incorporate the limitations of claim 21 in a method step. Applicant’s amended claim 18, step a., now recites, “placing a film generator assembly in a chamber filled with a pressurized gas, wherein the film generator assembly comprises a hemispherical redirector coupled with a cylindrical film generator including apertures.” Applicant has further added step e. to claim 18, wherein step e. recites, “passing the film over the apertures to aid film generation. Applicant contends that Reynolds does not disclose placing apertures in his cylindrical sidewall 302, as the cylindrical sidewall 302 is also the chamber wall. Apertures in the sidewall 302 would lead to an

unpressurized chamber, and fluids entering the chamber would pass through the apertures in the sidewall 302, thereby rendering the carbonator 300 inoperable. Applicant contends that Applicant's invention provides for a pressurized chamber including a cylindrical film generator having apertures therethrough to aid in the generation of a film as a fluid moves over the cylindrical film generator and the apertures. Applicant further contends that amended claim 18 describes the method of utilizing the apparatus of claim 10 that has been allowed. Accordingly, Applicant respectfully submits that claim 18 is patentable over Reynolds, and respectfully requests that the rejection of claim 18 under 35 U.S.C. 102(b) be withdrawn.

Claim 19 has been rejected under 35 U.S.C. 102(b) as being unpatentable over Reynolds. Applicant respectfully submits that claim 19 has been amended to recite step f., in order to follow method steps of amended claim 18. Applicant further respectfully submits that the patentability of claim 19 lies with claim 18, and the arguments for claim 18 are pertinent to the arguments for claim 19. Accordingly, Applicant contends that claim 19 is patentable over Reynolds, and respectfully requests that the rejection under 35 U.S.C. 102(b) be withdrawn, as Reynolds fails to disclose apertures to aid in film generation

Claims 21, 24, and 25, stand rejected under 35 U.S.C. 102 (b) as being unpatentable over Reynolds. Applicant respectfully submits that the limitation of claim 21 has been moved into claim 18, and therefore, claim 21 has been canceled. Applicant further submits that claims 24 and 25 have also been cancelled.

The prior art made of record has been reviewed by Applicant and is deemed not to anticipate nor render obvious the claimed invention.

In view of the foregoing, Applicant respectfully requests reconsideration of the rejected claims, and solicits early allowance of the subject application.



Respectfully submitted,

LAW OFFICES OF CHRISTOPHER L. MAKAY
1634 Milam Building
115 East Travis Street
San Antonio, Texas 78205
(210) 472-3535

DATE: 29 November 2005

BY: John Vira

Christopher L. Makay
Reg. No. 34,475

ATTORNEY FOR APPLICANT

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 C.F.R. §1.10 on the date indicated below, addressed to the COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, VA. 22313-1450.

Express Mail No. EV617705875US Date: 29 November 2005

EV617705875US

John Vira